

**ASSEMBLY BILL**

**No. 1449**

**Introduced by Assembly Member Florez**

February 26, 1999

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An act to add Section 4501.2 to the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1449, as introduced, Florez. Prisoners: medical testing.

Under existing law, if there is probable cause to believe that an inmate has committed a battery upon the person of any officer or employee of the state prison by gassing, as defined, the chief medical officer of the state prison may, when he or she deems it medically necessary to protect the health of an officer or employee who may have been subject to a battery by gassing, order the inmate to receive an examination or test for hepatitis and tuberculosis immediately after the event, and periodically thereafter as determined to be necessary by the medical officer. The results of any examination or test are required to be provided to the officer or employee who was the target of the aggravated battery.

This bill, in addition, would apply these provisions, including the element of assault, to local prison facilities. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4501.2 is added to the Penal  
2 Code, to read:

3 4501.2. (a) Every person confined in a local  
4 detention facility who commits an assault or battery upon  
5 the person of any officer or employee of that detention by  
6 gassing is guilty of aggravated battery and shall be  
7 punished as specified in Section 4501.5.

8 (b) For purposes of this section, “gassing” means  
9 placing or throwing, or causing to be placed or thrown,  
10 upon the person of another, any mixture of excrement or  
11 other bodily fluids or substances.

12 (c) The person in charge of the detention facility shall  
13 use every available means to immediately investigate all  
14 reported or suspected violations of subdivision (a). If  
15 there is a reasonable suspicion that the inmate or ward has  
16 violated subdivision (a), the chief medical officer of the  
17 detention facility, or his or her designee, shall order the  
18 inmate or ward to receive an examination or test for  
19 hepatitis and tuberculosis immediately after the event,  
20 and periodically thereafter as determined to be necessary  
21 by the medical officer. The results of any examination or  
22 test shall be provided to the officer or employee who was  
23 the target of the assault or battery.

24 (d) The person in charge of the detention facility shall  
25 refer all reports of assault or battery by gassing to the local  
26 district attorney for prosecution.

27 SEC. 2. No reimbursement is required by this act  
28 pursuant to Section 6 of Article XIII B of the California  
29 Constitution because the only costs that may be incurred  
30 by a local agency or school district will be incurred  
31 because this act creates a new crime or infraction,  
32 eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section

1 17556 of the Government Code, or changes the definition  
2 of a crime within the meaning of Section 6 of Article  
3 XIII B of the California Constitution.

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